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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,330	04/22/2005	Jean-Louis Assie	401/1/009	1760
170 7590 07/25/2008 RICHARD M. GOLDBERG 25 EAST SALEM STREET SUITE 419 HACKENSACK, NJ 07601				
EXAMINER				
PICKETT, JOHN G				
ART UNIT		PAPER NUMBER		
3728				
MAIL DATE		DELIVERY MODE		
07/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,330

Applicant(s)

ASSIE ET AL.

Examiner

J. Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 and 3-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6 April 2008 has been entered.

Claims 1 and 3-11 are pending in the application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Terminal Disclaimer

2. The terminal disclaimer filed on 6 April 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Application 10/539,266 has been reviewed and is accepted. The terminal disclaimer has been recorded. The double-patenting rejections are withdrawn.

Claim Rejections - 35 USC § 102

3. Claims 1, 3, 5-8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwiatek et al (US 4,915,102).

1: In Figure 9, Kwiatek discloses a single-use packaging for a liquid comprising a protective cover 4a/6a, breakable leak-proof blister 17, pouch 15 affixed to the inside face of part 4a, and applicator 23.

3: Pouch 15 is formed of first part 2a and second part 23, which is flexible and porous.

5-8: Parts 4a & 6a are joined as claimed (see e.g. Figures 1 and 15).

Claim 11 is merely the combination of claims 1, 3, 5, and 6, and Kwiatek, as applied above, discloses the claimed invention.

Claim Rejections - 35 USC § 103

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwiatek (US 4,915,102), as applied to claim 3 above, and further in view of Kerch et al (US 4,762,124).

Kwiatek, as applied to claim 3 above, discloses the claimed invention except for the cotton wool inside the pouch.

Kerch teaches cotton wool 20 inside an applicator 10 with a permeable membrane 22 for the purpose of retaining quantities of liquid in measured amounts (Col. 4:42-44), and for said purpose, it would have been obvious to one of ordinary skill in the art to provide cotton wool inside the pouch of Kwiatek.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwiatek (US 4,915,102), as applied to claim 1 above, and further in view of Wendel et al (WO 02/02042 A1, the disclosure of which may be viewed in US 7,240,790).

Kwiatek, as applied to claim 1 above, discloses the claimed invention except for the dressing on the outside cover. Wendel teaches back-to-back dressings for differing procedures. To provide the assembly of Kwiatek with an additional dressing as taught by Wendel would be considered a mere duplication of parts and would have been obvious to one of ordinary skill in the art.

Response to Arguments

6. Applicant's arguments with respect to claims 1 and 3-11 have been fully considered.

The dose of substance of Anderson is glutaraldehyde, which is toxic to the skin of a person; the rejection based upon Anderson is withdrawn in view of applicant's amendment to include the function of application to the skin of a person.

And while the examiner does not concede the obviousness of the substitution of Gruenbacher to replace a saturated pad for controlled release of the substance, the arguments concerning the combination are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/
Primary Examiner, Art Unit 3728